

REMARKS

Claims 1, 3-43, and 57 are pending and under consideration. Claims 2 and 44-56 are cancelled without prejudice or disclaimer of the subject matter contained therein, and Claim 57 is added.

Applicants acknowledge that a reference included in the information disclosure statement filed July 30, 2003, has not been considered as indicated on page 2 of the Office Action.

On page 3, the Office Action rejects Claims 1, 2, 4, 6, 9-11, 20-27, 30-32, 39, and 41-43 under 35 U.S.C. § 102(b) as being anticipated by Williams et al. (U.S. Pat. No. 5,871,530).

With respect to Applicants' independent Claim 1, the Office Action states that the Williams reference discloses "an elastomeric multi-lumen tube including a lumen with an inner surface forming a substantially elliptical cross-section (FIG. 5)," and "an elongated conductor with a circular cross-section (18)." With respect to Applicants' dependent Claim 2, the Office Action states that "Williams' conductor has an outer diameter 'approximately equal' to the minor axis because there is only a small gap between the conductor and the inner wall."

Applicants' have amended independent Claim 1 to recite that the lumen's cross-section has a first length in a relaxed state, and that the conductor's cross-section has a diameter greater than the first length. Claim 1 further recites that the conductor contacts the lumen's inner surface to maintain the lumen in a deformed state wherein the minor axis has a length greater than the first length.

Figure 5 of the Williams reference illustrates four pie shaped lumens 34, 36, 38, and 40 in a relaxed state. Conductors 14, 16, 18, and 20 reside within lumens 34, 36, 38, and 40, respectively. As can be seen, the diameter of each conductor is less than the minor axis of its associated lumen. The Office Action argues that the conductor's outer diameter and the lumen's inner diameter are only separated by a "small gap" and are thus close enough in length to be considered "substantially equal". The conductor's diameter is by no means

greater than the length of the lumen's minor axis in a relaxed state as is now explicitly recited in Applicants' independent Claim 1. Considering this, and considering that Williams' conductor does not maintain the lumen in a deformed state wherein the length of its minor axis is greater than in a relaxed state, Applicants respectfully submit that amended independent Claim 1 is not anticipated by the Williams reference under 35 U.S.C. § 102(b).

Applicants' Claims 2 and 44-56 have been cancelled.

Applicants' Claims 3-43 are believed to properly depend, either directly or indirectly, from Applicants' amended independent Claim 1, which is believed allowable for the reasons set-forth above. Therefore, it is respectfully submitted that Applicants' dependent Claims 3-43 are likewise allowable.

On pages 5-6, the Office Action rejects Applicants' Claims 3, 4, 7, 8, 12-27, 19, 28, 29, 33-38, and 40 under 35 U.S.C. § 103(a). Each of these claims is believed to properly depend from Applicants' amended independent Claim 1. As amended independent Claim 1 is believed allowable for the reasons stated above, it is respectfully submitted that dependent Claims 3, 4, 7, 8, 12-27, 19, 28, 29, 33-38, and 40 are allowable therewith.

Applicants' have added independent Claim 56, which is directed to a medical lead comprising an elastomeric tubing including a lumen characterized by a substantially elliptical cross-section having major and minor axes. Claim 56 specifies that an elongated conductor resides within the lumen and contacts the inner surface thereof at a first position and a second, substantially opposite position to reduce the length of the major axis. Claim 56 further specifies that the first and second positions are each located proximate the minor axis.

The Williams reference does not show or describe such medical lead. Nor is such a lead taught or suggested by the other references of record. Therefore, it is respectfully submitted that Applicants' newly added independent Claim 56 is patentably distinct over the cited references.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this Amendment, the Examiner is requested to telephone the undersigned attorney to attend to those matters.

Respectfully submitted,

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Date

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